

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JOSEPH AMORE,

Plaintiff,

v.

**5:04-CV-176
(FJS/DEP)**

**CITY OF ITHACA and ANDREW
NOVARRO,**

Defendants.

APPEARANCES

OF COUNSEL

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**JONATHAN M. BERNSTEIN, ESQ.
WILLIAM J. GREAGAN, ESQ.**

SCULLIN, Senior Judge

ORDER

In a Memorandum-Decision and Order dated March 28, 2008, this Court, among other things, denied Defendant Novarro's motion for summary judgment on a false arrest claim, finding that he was not entitled to qualified immunity. *See* Dkt. No. 41 at 10-12. On October 3, 2008, Defendant Novarro filed a Notice of Appeal. *See* Dkt. No. 54. On January 5, 2011, the Second

Circuit Court of Appeals issued a mandate and slip opinion in which it concluded that this Court "erred in deciding that it would have been clear to a reasonable officer in [Defendant] Navarro's position that making the arrest was unlawful." *See* Dkt. No. 63 at 2. Therefore, the Second Circuit reversed this Court's order in that regard and remanded the case "with instructions to grant the summary judgment motion based on qualified immunity and to dismiss the complaint against [Defendant] Navarro, only." *See id.*

Accordingly, in compliance with the Second Circuit's mandate, the Court hereby

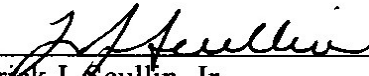
ORDERS that Defendant Navarro's motion for summary judgment is **GRANTED** based on qualified immunity; and the Court further

ORDERS that the complaint is **DISMISSED** against Defendant Navarro; and the Court further

ORDERS that counsel for Defendant City of Ithaca shall initiate a telephone conference, using a professional telephone conference provider, with the Court and opposing counsel on **January 19, 2011, at 9:45 a.m.** to set a date for the trial of this matter.

IT IS SO ORDERED.

Dated: January 7, 2011
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge